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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-066

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In the “Effect on small businesses” section of the analysis, it appears that “will” should replace “will may.”

b. In s. DWD 40.05, either both subsections should have titles or neither should.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. DWD 40.03 (3), “Chapter” should be replaced with “ch.” However, that chapter specifies several state minimum wages, such as the minimum wages for opportunity and minor employees, tipped employees, and others. Is it possible to include a more specific citation, such as s. DWD 272.03 (1m) (a)? If this citation changes in the future, the proposed rule that makes the change could also change the cross-reference.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. DWD 40.05 (2) (b), it appears that this paragraph could be more clearly drafted. First, s. 767.89 (3) (e), Stats., provides that the court shall include in the paternity judgment or order an order establishing the amount of the father’s obligation to pay or contribute to the reasonable expenses of the pregnancy and birth.

Second, the introductory language in par. (b) provides that the court may order a birth cost judgment that is the lowest of the amounts set forth in subds. 1. to 4. However, subds. 3.

and 4. do not set forth specific amounts but instead state what the court may use in determining the amount of the judgment for certain fathers. This is awkward grammatically.

It may be clearer to state in par. (b) that the court shall order a birth cost judgment that does not exceed one-half of the actual and reasonable cost of the pregnancy and child's birth and that the court may order the lowest of the amounts in subds. 1. to 4. In subd. 3., "the court may use" should be deleted and in subd. 4., "the court may order a birth cost judgment at" should be deleted.

Also in that paragraph, in subds. 2., 3., and 4., "a father's" should be replaced with "the father's."

b. In s. DWD 40.05 (2) (b) 2., it is not clear which 36 months are covered. Is it the 36 months immediately preceding the court order or is it referring to anticipated earnings over the next 36 months? This should be clarified.